

AMENDED IN SENATE SEPTEMBER 10, 2013

AMENDED IN SENATE JULY 9, 2013

AMENDED IN ASSEMBLY MAY 1, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1098

**Introduced by Assembly Member ~~Quirk-Silva Gray~~
(~~Coauthors: Assembly Members Fox and Medina~~)**

February 22, 2013

An act to add Section ~~12098.7~~ *6126.10* to the ~~Government Business~~ *and Professions* Code, relating to ~~small business~~ *attorneys*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1098, as amended, ~~Quirk-Silva Gray. Office of Small Business Advocate: regulations: report. Attorneys: practice of law.~~

Existing law prohibits a person from practicing law in California, or from advertising or holding himself or herself out as practicing law, unless the person is an active member of the State Bar, or otherwise authorized, as specified, to practice law in this state. A violation of these provisions is a crime. Existing law, with specified exceptions, generally defines a legal document assistant as a person who, among other things, provides or assists in providing, for compensation, any self-help service to a member of the public representing himself or herself in a legal matter. Existing law regulates the activities of legal document assistants and requires them to register, as specified. A violation of these provisions is a crime.

This bill would provide that it is not the practice of law, is not a violation of those provisions prohibiting the unlawful practice of law, does not constitute the activities of a legal document assistant, and does not require registration as a legal document assistant for a person to design, create, publish, assemble, complete, distribute, display, or sell legal products, by means of an Internet Web site or mobile application, if the Internet Web site or mobile application includes a statement that it is not a substitute for an attorney.

~~Existing law creates the Office of Small Business Advocate within the Governor's Office of Business and Economic Development. Existing law establishes the duties and functions of the advocate, which include advisory participation in the consideration of all legislation and administrative regulations that affect small businesses.~~

~~This bill would require the advocate to commission a study, to be conducted every five years, of the costs of state regulations on small businesses, as specified, and to convene one or more stakeholder meetings to provide advice on the study. The bill would require that the study, upon completion and including recommendations, be posted on the advocate's Internet Web site. This bill would require the advocate to notify the Department of Finance, at least 30 days prior to commissioning the study, that sufficient funds are available from a non-General Fund source.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6126.10 is added to the Business and
2 Professions Code, to read:
3 6126.10. (a) *It is not the practice of law, is not a violation of*
4 *this article, does not constitute the activities of a legal document*
5 *assistant pursuant to Chapter 5.5 (commencing with Section 6400),*
6 *and does not require registration as a legal document assistant*
7 *pursuant to Section 6402 for a person to design, create, publish,*
8 *assemble, complete, distribute, display, or sell, by means of an*
9 *Internet Web site or mobile application, legal products, including,*
10 *but not limited to, written material, books, documents, forms, and*
11 *computer software.*

1 (b) *This section shall apply only if the Internet Web site or*
2 *mobile application includes a statement that it is not a substitute*
3 *for an attorney.*

4 ~~SECTION 1. The Legislature hereby finds and declares:~~

5 ~~(a) Small business remains the backbone of the state's economy.~~
6 ~~Regulatory burdens and costs continue to be one of the major~~
7 ~~complaints of small businesses.~~

8 ~~(b) The federal Small Business Administration began analyzing~~
9 ~~the cost and burdens of federal regulations on small businesses in~~
10 ~~1995. A recent report found that the annual cost of federal~~
11 ~~regulations in the United States totaled \$1.75 trillion. It also found~~
12 ~~the costs of federal regulations on firms with fewer than 20~~
13 ~~employees was \$10,585 in 2010. For small businesses, the~~
14 ~~regulatory and paperwork costs were found to be more burdensome~~
15 ~~for the small firms than larger firms.~~

16 ~~(c) Small businesses significantly impact California's economy.~~
17 ~~They represent 99.2 percent of all employers and employ 50.4~~
18 ~~percent of the private-sector labor force. Small businesses are~~
19 ~~crucial to the fiscal condition of the state and numbered 3.5 million~~
20 ~~in 2010.~~

21 ~~(d) The state does not have a current analysis on state regulatory~~
22 ~~costs similar to that created for federal regulatory costs.~~
23 ~~Understanding the financial effect of state regulations would help~~
24 ~~polymakers reduce or design more cost-effective regulatory~~
25 ~~approaches that achieve desired policy objectives while placing~~
26 ~~the least burden on the regulated industries.~~

27 ~~SEC. 2. Section 12098.7 is added to the Government Code, to~~
28 ~~read:~~

29 ~~12098.7. The advocate shall do all of the following:~~

30 ~~(a) Commission a study, to be conducted every five years, of~~
31 ~~the costs of state regulations on small businesses, which shall,~~
32 ~~among other things, do all of the following:~~

33 ~~(1) Parallel, to the extent feasible and practical, the scope and~~
34 ~~study on the impact of regulatory costs on small firms conducted~~
35 ~~by the federal Small Business Administration.~~

36 ~~(2) Examine successful models from other states on identifying~~
37 ~~regulatory costs and developing potential alternative approaches~~
38 ~~that meet the same regulatory objectives, but are less burdensome~~
39 ~~on small businesses.~~

1 ~~(b) Convene one or more stakeholder meetings to provide advice~~
2 ~~on the study required pursuant to subdivision (a). The stakeholders~~
3 ~~shall include, but not be limited to, representatives from small~~
4 ~~business associations representing a cross section of the small~~
5 ~~business community.~~

6 ~~(c) No later than January 1, 2015, and every five years thereafter,~~
7 ~~post the completed study required pursuant to subdivision (a);~~
8 ~~including recommendations on the advocate's Internet Web site~~
9 ~~and the advocate shall provide notice to the Department of Finance,~~
10 ~~the Speaker of the Assembly, the Senate President pro Tempore,~~
11 ~~the Chair of the Assembly, Committee on Jobs, Economic~~
12 ~~Development, and the Economy, and the chair of the Senate~~
13 ~~Committee on Business, Professions and Economic Development~~
14 ~~that information is publicly available. The study shall remain~~
15 ~~available on the Internet Web site at least until the next study is~~
16 ~~posted.~~

17 ~~(d) For the purposes of the study, information shall be provided~~
18 ~~based on nonemployer businesses, businesses with five or fewer~~
19 ~~employees, businesses with 99 or fewer employees, businesses~~
20 ~~with 499 or fewer employees, and businesses with more than 500~~
21 ~~employees.~~

22 ~~(e) Prior to commissioning the study, the advocate shall~~
23 ~~determine that sufficient funds to conduct the study are available~~
24 ~~from a non-General Fund source. At least 30 days prior to~~
25 ~~commissioning the study, the advocate shall notify the Department~~
26 ~~of Finance that the advocate has determined that sufficient funding~~
27 ~~is available and that the advocate will commission the study.~~